



## May I Park In Your Driveway Every Day...For Free?

Posted by [Pierluigi Oliverio](#) on Monday, December 22, 2008

Tomato Thyme is a popular restaurant in my district that operates out of a typical suburban shopping center—with parking in the front and the buildings in the back. Tenants in this shopping center include Safeway, Rite Aid, Bally's Fitness, Bank, Dry Cleaner and even a Moose Lodge.

Consumers patronize shopping centers like this, but may never ponder who actually owns the land. In some cases the land is owned by one person, and in other cases there are many owners. In this shopping center, there are six different property owners. They each own their specific building and specific parking spaces. The six owners have had a shared parking agreement in place for years that has allowed customers to park wherever they wanted and visit whichever store they choose without being towed. This parking agreement is expiring in a few months, and renewing it is up to the private property owners.

Tomato Thyme wanted to build a patio in the back of their building with 50 additional seats. So the restaurant hired two lobbyists to assist them in having the City Council change the zoning of the shopping center so that the individual property owners would no longer have a certain number of spaces allotted to their business—thus eliminating the need for an updated parking agreement.

Might seem innocent at first, but when you look deeper, it is really asking the city to use its power of eminent domain to take control of private property. Reminds me of the Tropicana Shopping Center where the city used eminent domain to take land, and in turn was sued. The city lost the court case and paid out millions to the property owners.

I did not want our city to be sued again, as I would rather spend money on public safety and libraries.

The campaign of "Vote Yes on the Patio" was really a smokescreen for a bigger acquisition. The owners of the Tomato Thyme had an option to buy their neighbor, the Moose Lodge. The value of the Moose Lodge, with unlimited parking spaces, (provided the lobbyists could rezone the

shopping center) was substantial since the Moose Lodge owned only a handful of parking spaces.

I did not bring up the Moose Lodge on the night of the council vote, because I felt that my memo—supporting a patio—was the goal. Many people whom I have spoken with are happy that the patio was approved, but had no idea about the Moose Lodge and the private property issue the lobbyists were working on.

I gave the Council an example that evening: Lets say you own a house and do not park in your own driveway, since you only have one car. Your next-door neighbor has several cars and asks if he can park in your driveway for free whenever he wants. You say, “no it is my driveway, and I may have future plans for it.” So your neighbor, unhappy with your answer, goes and hires a lobbyist to change the zoning of your house so he can now park in your driveway for free whenever he wants. Sound fair? Well that was the proposal by the restaurant.

When a restaurant wants to add more seats they need to designate where customers will park. So beyond the building of the patio, the city needed to approve where all the new cars would park for the additional 50 patio seats. The onion unraveled as we found Tomato Thyme did not have enough parking for its existing dining room. They own 20 parking spaces which allowed for 50 seats, not their current 119 seats in the dining room.

What a messy situation!

I am supportive of outside dining and like to help small business grow in a way that does not monetarily damage others. Therefore, my memo changed the parking ratio for restaurants in that shopping center to fix Tomato Thyme’s out-of-compliance parking issue. If we did not do this, they would have to reduce the current seating by 69 seats.

The Council also approved the patio with a setback for the neighborhood residents. However, a shared parking agreement for the additional parking spaces, on site or off site, must be in place. Seems fair to have an agreement to use someone’s property.

So things are not always what they appear, even on smaller items on the council agenda.

Should local government respect private property rights, or make exceptions?

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